

## In the Indiana Supreme Court

FIRST INDIANA BANK, NA, F/K/A	) Supreme Court No. 41S00-0703-SJ-98
FIRST INDIANA BANK	)
	)
VS.	)
	)
INDIANA BAPTIST COLLEGE	)
D/B/A HERITAGE BAPTIST	)
UNVERSITY, BOARD OF TRUSTEES	)
RUSSELL DENNIS, JR., JEREMY	
WILHELM, L. DAVID BALL,	)
BEVERLY J. HUSTSLAR, ED EGBERT	,)
DR. CLINTON L. BRANINE,	)
DR. V. BEN KENDRICK, ORAN H.	) Case No. 41D03-0605-PL-32
HEUCK, and VIRGIL R.WORRELL	) in the Johnson Superior Court

## ORDER DENYING MOTION TO WITHDRAW PRAECIPE <u>AND APPOINTING SPECIAL JUDGE</u>

On March 5, 2007, Indiana Baptist College d/b/a Heritage Baptist University, Heritage Baptist University Board of Trustees, and trustees Eddie Egbert, Dr. Clinton L. Branine, Dr. V. Ben Kendrick, Oran H. Heuck and Virgil R. Worrell, (hereinafter "University") filed their praecipe to withdraw the submission of this matter from the Honorable Kim Van Valer Shilts. On March 6, the clerk of the Johnson Circuit and Superior Courts filed her notice pursuant to Ind. Trial Rule 53.1(E)(2) withdrawing the submission from Judge Van Valer Shilts effective as of the filing of the praecipe on March 5. On March 6, Judge Van Valer Shilts filed an order purporting to grant the relief sought by the University.

On March 9, the University filed with this Court its motion to withdraw the March 5 praecipe and to permit the trial court's order of March 6 to stand as the ruling in the case. On March 13, the party opposing the University, Russell Dennis, Jr., the president of Heritage Baptist University, filed his brief in opposition to the withdrawal of the praecipe.

And this Court, being duly advised, now finds that the University's motion to withdraw its praecipe of March 5, should be denied and that a special judge should be appointed to hear this matter in the Johnson Superior Court pursuant to Ind. Trial Rule 53.1.

IT IS, THEREFORE, ORDERED that the University's motion to withdraw its praecipe of March 5 is DENIED.

IT IS, FURTHER, ORDERED that jurisdiction of this matter is withdrawn from the Honorable Kim Van Valer Shilts, who is directed to file a report with the Indiana Supreme Court pursuant to Ind. Trial Rule 53.1(F).

IT IS, FURTHER ORDERED that the Honorable Thomas J. Carroll is appointed as special judge to hear this matter in the Johnson Superior Court. This order vests jurisdiction in Judge Carroll. Pursuant to Ind.Trial Rule 79(K), an oath of office is not required.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Kim Van Valer Shilts, Johnson Superior Court, Five East Jefferson Street, Franklin, IN 46131-2339; to the Hon. Thomas J. Carroll, Marion Superior Court, 200 East Washington Street, W542, Indianapolis, IN 46204-3341; and to the Clerk of the Johnson Circuit and Superior Courts.

The Clerk of the Johnson Circuit and Superior Courts is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this 22hd day of March, 2007.

Randall T. Shepard

Chief Justice of Indiana